

TITLE 1: GOVERNMENT AND ADMINISTRATION
DIVISION 4. PURCHASING, REVENUE AND TAXATION

Chapter 3: Real Property Transfer Tax.

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14.031 Title.

This chapter shall be known as the "Real Property Transfer Tax Code of the County of San Bernardino." It is adopted pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code.

Adopted Ordinance 1394 (1967)

14.032 Tax Imposed - Rate.

There is hereby imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the County of San Bernardino shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers or any other person or persons by his or their direction when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100), a tax at the rate of fifty-five cents (55¢) for each five hundred dollars (\$500) or fractional part thereof.

Adopted Ordinance 1394 (1967)

14.033 Person Obligated to Pay Tax.

The tax imposed by Section 14.032 shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

Adopted Ordinance 1394 (1967)

14.034 Inapplicability to Instrument Securing Debt.

The tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt.

Adopted Ordinance 1394 (1967)

14.035 Government Entities Not Liable for Payment.

The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.

Adopted Ordinance 1394 (1967)

14.036 Exempt Transactions-Bankruptcy, Receivership, Change of Identity, Place or Form of Organization.

The tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

- (a) Confirmed under the Federal Bankruptcy Act, as amended;
- (b) Approved in an equity receivership proceeding in a court involving a corporation, as defined in Subdivision (3) of Section 506 of Title 11 of the United States Code, as amended;
- (c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in Subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or
- (d) Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change.

Adopted Ordinance 1394 (1967)

14.037 Exempt Transactions - Conveyance Pursuant to S.E.C. Order.

The tax imposed pursuant to this chapter shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in Subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if:

- (a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
- (b) Such order specifies the property which is ordered to be conveyed;
- (c) Such conveyance is made in obedience to such order.

Adopted Ordinance 1394 (1967)

14.038 Applicability to Partnership Transactions.

(a) In the case of any realty held by a partnership, no tax shall be imposed pursuant to this chapter by reason of any transfer of an interest in the partnership or otherwise, if:

(1) Such partnership (or other partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this chapter, such partnership shall be treated as having executed all instruments whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this chapter by reason of a termination described in Subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

Adopted Ordinance 1394 (1967)

14.039 Credit for City Imposed Real Property Transfer Tax.

If the legislative body of any city in the County imposes a tax pursuant to Part 6.7 of Division 2 of the Revenue and Taxation Code equal to one-half (1/2) the amount specified in Section 14.032 of this chapter, a credit shall be granted against the taxes due under this chapter in the amount of the city's tax.

Adopted Ordinance 1394 (1967)

14.0310 Stamps - Redemption by Recorder.

The Recorder shall repurchase any unused adhesive stamps sold by him not later than July 10, 1968.

Adopted Ordinance 1394 (1967); Amended Ordinance #1430 (1968);

14.0311 Administration, Allocation, and Distribution of Proceeds.

The County Recorder shall administer this chapter and shall also administer any ordinance adopted by any city in the County pursuant to Part 6.7 (commencing with Section 11901) of Division 2 of the Revenue and Taxation Code imposing a tax for which a credit is allowed by this chapter.

On or before the fifteenth day of the month, the Recorder shall report to the County Auditor the amounts of taxes collected on documents recorded during the preceding month pursuant to this chapter and each such city ordinance. The Auditor shall allocate and distribute monthly said taxes as follows:

(1) All moneys which relate to transfers of real property located in the unincorporated territory of the County shall be allocated to the County.

(2) All moneys which relate to transfers of real property located in a city in the County which has imposed a tax pursuant to said Part 6.7 shall be allocated one-half (1/2) to such city and one-half (1/2) to the County.

(3) All moneys which relate to transfers of real property located in a city in the County which imposes a tax on transfers of real property not in conformity with said Part 6.7 shall be allocated to the County.

(4) All moneys which relate to transfers of real property in a city in the County which does not impose a tax on transfers of real property shall be allocated to the County.

Adopted Ordinance 1394 (1967); Amended Ordinance #1430 (1968);

14.0312 Tax Payment Required Before Recordation - Location and Sales Data Required.

The Recorder shall not record any deed, instrument or writing subject to the tax imposed by this chapter unless the tax described in Section 14.0310 is paid in the amount of the tax due under this chapter. If the party submitting the document for recordation so requests, the amount of tax due under this chapter shall be shown on a separate paper which shall be affixed to the document by the Recorder after the permanent record is made and before the original is returned as specified in Section 27321 of the California Government Code.

Every document subject to tax hereunder which is submitted for recordation, shall show on the face of the document or in a separate document the amount of taxes due under this chapter and the Recorder may rely thereon.

Every document subject to tax hereunder which is submitted for recordation, shall show on the face of the document, or in a separate document, the location of the lands, tenements or other realty described in the document. If said lands, tenements or other realty are located within a city in the County, the name of the city shall be set forth. If said lands, tenements or other realty are located in the unincorporated area of the County, that fact shall be set forth.

Adopted Ordinance 1394 (1967); Amended Ordinance #1430 (1968);

14.0313 Deleted by Ordinance 1430 (1968).

14.0314 Procedure for Claiming Refunds of Taxes.

Claims for refunds of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code.

Adopted Ordinance 1394 (1967)

14.0315 Administrative Interpretation.

In the administration of this chapter, the Recorder shall interpret its provisions consistently with those Documentary Stamp Tax Regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the Tax on Conveyances and identified as Sections 47.4361-1, 47.4361-2, and 47.4362-1 of Part 47 of Title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967, except that for the purposes of this chapter, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under state law.

Adopted Ordinance 1394 (1967)

14.0316 Recorder May Require Sales Records.

Whenever the County Recorder has reason to believe that the full amount of tax due under this chapter has not been paid, he may, by notice served upon any person liable therefor, require him to furnish a true copy of his records relevant to the amount of the consideration or value of the interest or property conveyed.

Adopted Ordinance 1394 (1967)

14.0317 Intentional Avoidance by Misrepresentation a Misdemeanor.

Any person or persons who makes, signs, issues, or accepts or causes to be made, signed, issued or accepted and who submits or causes to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this chapter and makes any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this chapter, shall be guilty of a misdemeanor.

No person or persons shall be liable, either civilly or criminally, for any unintentional error made in designating the location of the lands, tenements or other realty described in a document subject to the tax imposed by this chapter.

Adopted Ordinance 1394 (1967)

14.0318 Parcel Numbers on Instruments of Conveyance.

Pursuant to authority set forth in California Revenue and Taxation Code Section 11911.1, each deed, instrument, or writing by which lands, tenements, or other realty is sold, granted, assigned, transferred, or otherwise conveyed, shall have noted upon it the tax roll parcel number. The number will be used only for administrative and procedural purposes and will not be proof of title, and in the event of any conflicts, the stated legal description noted upon the document shall govern. The validity of such a document shall not be affected by the fact that such parcel number is erroneous or omitted, and there shall be no liability attaching to any person for an error in such number or omission of such number. The Recorder shall not accept any deed, instrument, or conveyance for recording unless the tax roll parcel number has been noted upon it. A parcel which has been created by the division of an existing parcel number and which at the time of recording has no separate parcel number, shall have noted upon it the words "portion of" and the parcel number of the parcel from which it was created.

Adopted Ordinance #2139 (1977);